

**September 4, 1997
Meeting Summary**

SEPTEMBER 4, 1997 MEETING SUMMARY

Draft
BDAC MEETING SUMMARY
SEPTEMBER 4, 1997
BERKELEY MARINA MARRIOTT
9:30 AM to 4:30 PM

MEETING OUTCOMES

Regarding Distinguishing Characteristics, BDAC discussed several issues on which it reached general consensus. Nine BDAC members agreed that #7 (water transfers opportunities) would remain on the list, as proposed, however, one member expressed disagreement with the group's conclusion. Three BDAC members agreed that #18 (brackish water habitat) would be suitable for addressing outflow and Bay water quality concerns, as long as year round data is used. After discussion by six BDAC members, revisiting the topics of water balance and the effects of water supply agreements prior to selection of a preferred alternative was suggested.

1. WELCOME (Sunne McPeak, Vice Chair)

Vice Chair Sunne McPeak convened the meeting and welcomed Bay-Delta Advisory Committee (BDAC) members and members of the public. As Chair Mike Madigan was detained on business in San Diego, Vice Chair McPeak chaired the meeting. She outlined the objectives of the meeting; to update members on the results of Alternative Narrowing and work-to-date on Detailed Evaluation, to conclude discussion on the decision matrix and distinguishing characteristics in order to lay a foundation for the November BDAC meeting, and discuss the process for the Ecosystem Restoration Program Plan (ERPP) Scientific Panel Review deliberations.

Vice Chair McPeak announced the next two meetings of BDAC, November 4th and 5th, and December 12th, both in Sacramento.

A small change in meeting format was then explained. Two public comment periods were scheduled for comment on topics not covered by a particular agenda item. The first comment period was scheduled just before break for lunch and the second, as at prior meetings, prior to adjournment. Vice Chair McPeak informed members of the public that opportunities to speak were limited to five minutes per speaker.

BDAC member Robert Meacher commented that it would be difficult for local officials or members of the public interested in local affairs to attend BDAC meetings scheduled on Mondays or Tuesdays. Vice Chair McPeak acknowledged the schedule conflict and asked staff to avoid Mondays and Tuesdays for future BDAC meetings.

Vice Chair McPeak brought to the attention of BDAC the resignations from the council of Leland Lehman, Tom Maddock and Marcia Brockbank. She requested that a letter of thanks be mailed to the former BDAC members.

2. RESTORATION COORDINATION PROGRAM UPDATE (Kate Hansel)

Presentation

Kate Hansel (CALFED Program staff) reminded BDAC that the deadline for responding to the Request for

Proposals (RFP) was July 28, 1997. She reviewed two memos distributed to BDAC. One memo categorized the proposals and the other summarized the proposal review process. The program was in the middle of the review process. She noted that proposals were submitted for a total of \$471 million. She added that the review process was explained in detail in the Request for Proposals.

Discussion Points

- BDAC member Alex Hildebrand requested information on several issues including, information on the project proponents, for explanation of how projects would relate to the CALFED Program, and for clarification about the timing of decisions on proposals and environmental review requirements. Vice Chair McPeak responded that information on specific project proponents could not be disclosed until after the contracts were awarded, due to legal restrictions. Ms. Hansel added that more specific characterization of the type and location of proposed projects would be provided to BDAC at the time of the Council's recommendation on the proposals. Vice Chair McPeak noted that the Program is providing direction to the Restoration Coordination effort. In addition, success of the CALFED Program is linked to the success of the Restoration Coordination process and projects. CALFED Program Executive Director Lester Snow stated that the RFP process was fulfilling a pre-existing obligation from Category III of the Bay-Delta Accord. Thus, proposal awards do not have to wait until the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the CALFED Program is certified.
- BDAC member Stu Pyle expressed that the proposal award process was unlike any other bid process with which he was familiar. Lester Snow said it is similar to contracting for professional services. He added that the Integration Panel members represented both agency and stakeholder parties and that those persons did have access to information about the individual proposals.
- BDAC member Bob Raab stated that among the environmental stakeholders the level of comfort with the proposal process increased after the June public workshop.

Presentation Continued

Ms. Hansel spoke further of the Integration Panel's responsibility. The panel is charged with determining the relative priority among those species and habitats published in the RFP. It is also charged with determining the relative importance of the proposed actions in restoring ecosystem processes that support the species and habitats.

Discussion Points

- Mr. Pyle asked whether the proposal selection process would separate selecting a proposal from selecting a contractor to implement the proposal. He further asked about cost control. Ms. Hansel replied that this RFP process is similar to a grants process, but unlike grant programs it must follow contract law. She noted that the proposals specify both the action and the proposed implementor. She added that proposal cost is one of several criteria used to select recommended proposals. She added that fair market appraisals will be required for land acquisition projects and that no amount above the appraisal will be approved.
- Mr. Hildebrand commented that some on BDAC were nervous about being rubber stamp advisors on the proposals. He then asked if the steelhead referred to in the materials was only for the San Joaquin River or for the entire system. Ms. Hansel responded that steelhead throughout the system

were being considered.

Presentation Continued

She repeated that the Integration Panel was prioritizing the fish species into tiers. More funds would be directed to actions for first tier species. She then described how the Restoration Coordination program was coordinating with review of the Central Valley Project Improvement Act (CVPIA) work programs. She noted that for species addressed by both programs, the Integration Panel work may be used by agencies implementing CVPIA.

- BDAC member Tom Graff asked whether legal authority had been consulted about the relative priority of migratory birds and some of the fish species currently in the first tier. Some people think that migratory birds should receive the same emphasis as some of those fish species. Ms. Hansel replied that migratory birds were in the RFP, and had been previously determined to be of secondary importance in addressing conflicts in the Delta.
- BDAC member Roberta Borgonovo inquired when reconsideration of species priority, particularly for migratory birds, might occur. Ms. Hansel noted that the prioritization she presented was for Category III and for this funding cycle only. She stated that each funding cycle will revisit the priority of the species and that the long-term ERPP would set forth a process for determining long-term priorities. Lester Snow added that it was likely that species in the Restoration Coordination program's second tier would benefit from the current funding cycle.

Presentation Continued

Ms. Hansel stated that the Integration Panel was in the process of prioritizing the types of restoration actions represented in the proposals, so that proposals containing high priority actions had a higher chance of being funded.

Discussion Points

- BDAC member Rosemary Kamei inquired how the possible change in priority species and habitats for future RFP rounds might affect ongoing projects. Ms. Hansel replied that the change in priorities is unlikely to be significant, so discontinuing projects in mid-course would not be necessary. Priority changes would allow the program to emphasize actions to fill identified restoration program gaps.
- BDAC member Howard Frick asked for the schedule for informing the public on the results of the Integration Panel deliberations. Ms. Hansel responded that the results would be part of the public record after the final decisions were made in late November.
- Mr. Frick and Mr. Hildebrand asked how landowners targeted for potential land acquisition would be notified and what measures would be taken to cope with impacts of land fallowing. Ms. Hansel stated that landowners must be willing sellers. Both Ms. Hansel and Lester Snow stated that there must be a clear indication of community support, as well.
- Roger Patterson (federal representative to BDAC) asked if the environmental review process, which has a public notice requirement, would be necessary for acquisition projects. Ms. Hansel replied affirmatively.

Vice Chair McPeak summarized the discussion noting that BDAC will receive a summary of the prioritized proposals at the November meeting for the Council's recommendation. At the December meeting BDAC would be informed of the final award decision by the CALFED Policy Group. BDAC member Mary Selkirk asked Ms. Hansel to reiterate the funds available and amount requested. The available funds were \$70 million and the requested funds were \$471 million.

Public Comment

- Jason Peltier (Central Valley Project Water Association) reminded BDAC of the upcoming federal appropriation for fiscal year 1998 and the need to fully spend these federal funds before requesting from Congress an additional appropriation in subsequent years. He added that this year the Department of the Interior had agreed to use the Integration Panel to review CVPIA restoration fund priorities. He suggested that having both Programs reviewed by the Integration Panel significantly helps coordination.

3. RESULTS OF AGENCY DELIBERATIONS ON ALTERNATIVE NARROWING & DETAILED EVALUATION, STEPS 1 AND 2 (Lester Snow)

Presentation

Lester Snow reminded BDAC of the process for selecting a preferred alternative, presented in detail at the May and July BDAC meetings. He reviewed the memo in the BDAC packet documenting the alternative narrowing decision by the CALFED Policy Group. The Policy Group decided that the pipeline conveyance option in alternatives 3C and 3D should be retained, but that the specific alternatives would be dropped from further evaluation. Additionally, alternatives 3F, 2C and 3G, as recommended by BDAC, would be dropped as well.

Lester Snow then discussed the Policy Group's decisions regarding the distinguishing characteristics to be used in Detailed Evaluation. These decisions were presented in a memo to BDAC in the meeting packet. He added that the characteristics may need revision as the evaluation process moves forward and more technical information becomes available.

Discussion Points

- BDAC member David Guy expressed concern that the Program may wrongly assume there is overall agreement on the common programs. In response to a question from Vice Chair McPeak, he stated that while it was important to look at the big picture, not all the common programs were acceptable. Lester Snow replied that detailed evaluation of the program is attempting to discern the differences between the alternatives. He added the environmental impact analysis will analyze the effects of the common programs and also the combined effects of the common programs and storage and conveyance.
- BDAC member Judith Redmond stated distinguishing characteristic #7 (water transfers opportunities) was inappropriate until the Water Transfers Work Group finished its work. She thought that the work group may recommend that some types of transfers should be prioritized over others.
- BDAC member Roberta Borgonovo asked for clarification about the Program Coordination Team.

(PCT) and the CALFED Policy Group. Lester Snow replied that the PCT was comprised of division heads or staff with technical expertise, and that the Policy Group members are directors of state agencies or regional heads of federal agencies.

- Mr. Raab and BDAC member Hap Dunning asked why San Francisco Bay water quality was not among the distinguishing characteristics. Lester Snow replied it is expected that San Francisco Bay water quality would be the same no matter which alternative was selected. Vice Chair McPeak noted that water quality changes could occur due to water quality constituents, which would be controlled by the water quality common program. However, water quality may also be influenced by hydrology and that the hydrology could change with each alternative. Lester Snow agreed and noted that hydrologic changes are being evaluated by the brackish water habitat distinguishing characteristic. He added that the brackish water habitat characteristic incorporated X2, which is a way of documenting changes in Delta outflow. He added that in-Delta salinity was affected by changes in configuration and flow patterns in the Delta, but that such changes do not have the same kind of impact in the Bay.
- Mr. Hildebrand concurred with Ms. Redmond regarding concerns about distinguishing characteristic #7 (water transfer opportunities). He said that many people are concerned that the Program is inadequately considering cumulative impacts and that it was not obvious that these were being considered. He added that the phrase "and impacts" should be added to that characteristic.
- Mr. Graff raised two points. One was that many environmentalists will judge adequacy of the preferred alternative based on how much water remains in the system for environmental purposes. The second point, which he said was a sub-point of the first, was that exports from the Delta could increase if Southern California is not able to access full allocation from the Colorado River, possibly due to high water distribution costs. Lester Snow initially replied that he hoped the environmental community would assess the success of the program based on the improvement to ecosystem health. The question of how much water can be removed yet meet the all the program's objectives varies by alternative. He added that the current system is relatively inefficient and that it appeared that increased diversions and improved ecosystem health could occur. He noted that the question is how to balance the different objectives of the program and competing needs. The Solution Principles are structured to guide that balancing. Currently, the program is using the detailed evaluation to examine all the possibilities and trade-offs. He concluded by stating that the program is assuming full use of Colorado River water supplies. It may be necessary to review that issue during Program implementation.

Vice Chair McPeak noted that the issues being raised were being recorded on a flipchart. She then summarized the comments and stated that resolution of them was necessary. The issues were:

- Should characteristic #7 be used and if so, should the phrase "and impacts" be added?
- How is water quality of San Francisco Bay being addressed in Detailed Evaluation?
- Should water balance be a distinguishing characteristic?
- How are various water agreements being considered as CALFED alternatives are analyzed?

Mr. Hildebrand suggested and Vice Chair McPeak agreed that cumulative impact assessment be added to the issues list.

- BDAC members Pietro Parravano and Robert Meacher asked whether characteristic #17 (ability to phase facilities) referred to expansion or phasing of agreed upon facilities. Lester Snow replied it referred to the latter and that using the word "expansion" in the BDAC memo was a poor word choice. Vice Chair McPeak added that phasing enabled evaluation of whether ecosystem objectives were being met so that other actions could be adjusted, if necessary.
- Ms. Borgonovo expressed her concern about the nature of baseline conditions. She noted that baseline has been assumed to include Bay-Delta Accord X2 standards and actions resulting from implementation of CVPIA. Ms. Borgonovo responded that for many stakeholders there is linkage between freshwater outflow and Bay-Delta water quality and that the brackish water habitat characteristic may not totally capture that linkage. She asked if each alternative would have the same Delta outflow. Lester Snow replied that program has two baselines, the existing conditions and the no action alternative. The latter includes implementation of CVPIA. He added that all CALFED alternatives exceed the environmental protections in CVPIA. Vice Chair McPeak replied that outflows would likely vary between the alternatives and that it was among the topics for further BDAC discussion.
- Mr. Parravano suggested that another characteristic (dealing with the recovery programs of endangered species) be added. Lester Snow responded that this was covered in the ecosystem restoration common program and that the restoration program incorporated actions of existing recovery plans.

Lester Snow suggested BDAC members consider whether the program had adequately addressed impacts from water transfers after reviewing page 22 of the attachment in the BDAC packet. For discussion on brackish water habitat he directed BDAC's attention to the definition in the packet. He then stated that the program to date was built on the assumption that the common programs would move forward. Significant changes to the common programs would constitute a major policy shift.

4. DISTINGUISHING CHARACTERISTICS (Loren Bottorff)

Presentation

Loren Bottorff (CALFED Program staff) reminded BDAC that the Council had requested an example of the application of detailed evaluation using the distinguishing characteristics. He stated that the results presented in the example were very preliminary and subject to change. He added that in November the results presented to BDAC would be supported by documented technical analysis and judgement. He added that the scoring schemes for the results would be consistent between each distinguishing characteristic. Mr. Bottorff began explanation of the example as presented in the BDAC meeting package.

Discussion Points

- Mr. Hildebrand stated that the logic used to score the alternatives for those distinguishing characteristics was not evident. Examples of lack of clarity were the effects of transfers on characteristic #6, the use of the time period September-December for characteristic #1 and assumptions regarding the effectiveness of fish barriers in characteristic #3. Vice Chair McPeak summarized that full year data should be used for characteristic #1, and that staff should be explicit about assumptions used in the evaluation.

Mr. Graff, Vice Chair McPeak and Lester Snow engaged in discussion about the relationship between

water exports and environmental degradation, and how this should be reflected in the detailed evaluation. The ERPP common program provides for overall restoration in the system. When analyzing the differences between the conveyance options, the negative environmental effects will likely show up in the distinguishing characteristics comparisons. The Program is attempting to describe an overall vision of ecosystem health. Some question how such a vision could be attained without specifying the amount of water for environmental purposes. Achieving the vision will likely require increased water flows that are appropriately timed and at the proper temperatures, in combination with habitat restoration.

Vice Chair McPeak stated it was important to determine the level of agreement on the ERPP common program, as that program drives the entire CALFED planning effort.

Presentation Continued

Lester Snow continued the presentation. He noted that at the conclusion of the detailed evaluation there will be no clear winning alternative. Instead, there will be distinct trade-offs between the alternatives. Some restructuring of the alternatives may be required in order to select a draft preferred alternative. The likely trade-offs are flexibility versus cost, flexibility versus certainty and the need for assurances, in-Delta versus export water quality, and water supply versus impacts to habitats. These trade-offs will be discussed in the context of the program's Solution Principles.

The next steps in detailed evaluation are to continue the ongoing technical analysis, complete the decision matrices, review preliminary outcomes with the CALFED Policy Group in October, and bring results to BDAC in November.

Discussion Points

- Vice Chair McPeak summarized BDAC direction to staff. The assumptions in the analyses for detailed evaluation should be explicit. Analysis for in-Delta water quality should use full year data. Results of detailed analysis should be sent out as early as possible, perhaps three weeks in advance of the November meeting. She called for some mechanism for additional BDAC review of the detailed evaluation results prior to the November meeting.
- BDAC member Ann Notthoff urged that all CALFED information be understandable to the general public. Much of the material to date has been impenetrable. Lester Snow agreed that the information is difficult to understand. He cautioned against simplifying information to the point of a "bumper sticker" slogan and encouraged suggestions for improvement.

Deliberations - Distinguishing Characteristic #7

Vice Chair McPeak, at this time, returned to points she summarized earlier and initiated deliberation on those points.

Ms. Redmond, Mr. Hildebrand, Mr. Pyle, Lester Snow, Vice Chair McPeak, Ms. Kamei, Mr. Graff, Ms. Notthoff, Mr. Meacher and BDAC members Tib Belza and Roger Strelow participated in the discussion. Concern was expressed that the impacts of transfers are likely to be statewide and that the program assumes that increasing the opportunity for transfers is a positive attribute. Conversely, others supported the distinguishing characteristic as stated by CALFED. Members called for spelling out the benefits and risks of a CALFED transfers program, consistency of the program with the Solution Principles, and the trade-offs among the alternatives. Adding the phrase "and impacts" to the characteristics was discussed

because water transfers raise concerns about assurances, and may require eliminating or mitigating third party impacts. On the other hand, the phrase may make distinguishing between the alternatives difficult.

Vice Chair McPeak summarized the discussion noting that BDAC would not recommend changes or deletions to the characteristic, and that any sort of value judgement about the desirability of transfers should not be in the analysis. Information on the possible impacts resulting from transfers would be conveyed to BDAC as the information became available. Ms. Redmond asked that the record show that she did not agree that the characteristic should be retained.

Deliberations - San Francisco Bay Water Quality

Vice Chair McPeak, Lester Snow, Dick Daniel (CALFED Program staff), Mr. Raab and Ms. Borgonovo discussed this item. Changes in distinguishing characteristic #18 (brackish water habitat) may capture concerns about the quality of water flowing out to the Bay. Embedded in the characteristic is the measurement of X2 salinity which is influenced by Delta outflow. The characteristic would assess volume, seasonal distribution, and duration of flows during critical periods. While the measurement of X2 is only for six months of the year the results can be modeled for the entire year. Also, the ERPP common program contains specific volumes for pulse flows under specific conditions to fulfill and/or stimulate necessary ecological processes. Representatives of environmental interests would continue to consider whether or not X2 data adequately measured the full range of concern about the quality of inflow to the Bay.

Vice Chair McPeak concluded the discussion stating that the use of the brackish water habitat distinguishing characteristic would be suitable for addressing outflow and Bay water quality concerns and that BDAC recommended that year round data be used.

Deliberations - Water Balance

Vice Chair McPeak, Lester Snow, Mr. Pyle, Mr. Graff, Mr. Meacher, Ms. Selkirk and BDAC member Steve Hall participated in this discussion. Effects of water diversions due to different conveyance alternatives would be evaluated by several characteristics including #6, #13, and #18. The ERPP common program is the program's effort to restore the ecosystem regardless of what storage and conveyance option is selected. Evaluating the water supply opportunities enables one to see how the ERPP is achieved and under what circumstances achieving it may deplete water for other uses in the system. A basic assumption of CALFED is that a win-win solution is possible by re-adjusting the timing of water diversions. Some view that total depletions are also important considerations for improving ecological health. Obtaining information on the Program's assumptions about total diversions and total depletions from the system has been difficult for some stakeholders. The program is attempting to balance the uses of the Bay-Delta system and is not using any entity's water delivery commitments as the basis for achieving that balance. However, some thought it would be useful to show how the alternatives perform compared to existing water supply agreements. Others vigorously disagreed and were concerned that such analysis at this time would create significant misunderstanding. Other opportunities for this analysis would arise both in the CALFED process and in other forums.

Vice Chair McPeak concluded the discussion by stating that no additional characteristic analyzing water balance and the effects of water supply agreements would be recommended for detailed evaluation. She indicated that this topic would be revisited as an explicit agenda item prior to selection of a preferred alternative. Lester Snow added that this was a fairly complex topic area. Assumed within the CALFED no action alternative is implementation of most actions required by CVPIA. Also, CALFED is not trying

to achieve water demand targets, though for modeling purposes varying assumptions about demand are made and shared with stakeholders.

5. PUBLIC COMMENT

Gary Bobker (The Bay Institute) commented that for characteristics #3 and #4 foodweb productivity should be evaluated. He endorsed continuing to examine Delta inflow and outflow water quality.

Cynthia Koehler (Save San Francisco Bay Association) requested that discussion of the Habitat Conservation Plan (HCP) be on the November agenda for BDAC. Many of the public are confused by the HCP and its relationship to the ERPP. An HCP would allow an incidental take permit to be issued at an unprecedented scale and some question if that is appropriate. Another question is whether it may be more appropriate to issue incidental take permits for specific CALFED related projects, rather than at the programmatic level. With an HCP comes a policy of "no surprises" for project proponents which seems to be jumping the gun on the assurances package. Ms. Notthoff agreed that BDAC should consider the topic.

Al McNabney (Mt. Diablo Audubon Society) urged that the ERPP address species of non-migratory birds that are in need of restoration, in addition to migratory species. He added that restoration projects done incorrectly could harm non-migratory species.

Ed Petry (Mendota) commented that impacts of water transfers from the Mendota Pool on the City of Mendota's water quality were not being addressed. Nor were impacts from the San Luis Drain. Mr. Meacher and Mr. Hildebrand urged that the appropriate agencies follow-up on Mr. Petry's repeated expression of concerns.

Michael Warburton (Ecology Center and Public Trust Legal Project) stated that the public trust doctrine underlies much of what is being debated in the CALFED process but that it was not receiving adequate attention. He added that the use of HCP's and market transactions in other environmental arenas had been badly abused. He suggested that prior to using these tools, the parties involved should have an understanding of what's up for sale.

6. TECHNICAL FEASIBILITY OF FISH SCREENS (Ron Ott)

This item was postponed.

7. CHAIR'S REPORT (Sunne McPeak, Vice Chair)

Following lunch, Vice Chair McPeak announced that the agenda would be re-ordered. She stated that due to the issues and the intensity of discussion, a two-day meeting would be necessary, probably November 4th and 5th in Sacramento. She noted that there had been more public comment than usual at this meeting. A meeting in Southern California would be scheduled in the early part of 1998.

With respect to a discussion about agreement on the Common Programs, Vice Chair McPeak noted that it would be a lengthy item. It would be held over to November to allow for adequate discussion. In the meantime staff would evaluate the Common Programs in light of the Solution Principles. Information in the existing conditions and no action alternative would be discussed, as well, to clarify the assumptions used in the alternatives. She added that the cumulative impact analysis done as part of overall impact analysis may require that the Common Programs be revisited at a later date. Additionally, the assurances package being prepared by the Assurance Work Group may also address some concerns about the

Common Programs. She reminded BDAC that the Common Programs will be part of every alternative in impact analysis.

Mr. Hildebrand asked whether an October meeting would be useful given the volume of material to be discussed. Vice Chair McPeak acknowledged the large amount of material. Lester Snow replied that staff needed time to prepare this material.

In response to a question from Mr. Pyle, Lester Snow indicated that the results from detailed evaluation using the distinguishing characteristics would be available at the November meeting. BDAC would discuss the results and consider the Solution Principles trade-offs that become apparent from the evaluation. Vice Chair McPeak added that this topic would be in addition to the discussion on the Common Programs.

7a. UPDATES FROM AGRICULTURE/URBAN GROUP & ENVIRONMENTAL WATER CAUCUS

Ms. Borgonovo informed BDAC that the Environmental Water Caucus continues its involvement in discussions on CVPIA environmental water and is also involved with discussion about extension of the Bay-Delta Accord.

Mr. Hall reported on the work of the Agricultural/Urban discussions. Participants are assessing the alternatives and are attempting to understand the technical foundation of CALFED's proposals. At the same time participants are conducting their own technical analyses. On September 25th and 26th participants would attend a retreat to discuss what the CALFED alternatives mean to the water supply community.

7b. UPDATE ON CVPIA (B2) DISCUSSIONS & 7c. UPDATE ON BAY-DELTA ACCORD

Mr. Graff stated that his comments on the B2 discussion would also extend to comments about extension of the Bay-Delta Accord. He referred to correspondence in the BDAC packet. He noted that litigation to delay implementation of subsection B2 was filed immediately after the act was signed into law. He noted that the U.S. Fish & Wildlife Service has been calling for implementation of the dedication of 800,000 acre-feet of water annually for fish restoration purposes authorized by subsection B2 and that the Bureau of Reclamation and water contractors were resisting this. While litigation was occurring, some interests approached the Governor and state legislators and suggested that the Bay-Delta Accord prohibited implementation of subsection B2.

Mr. Graff then described his disagreement with the Governor's position. One, the Governor may say that there should be no net loss of water supplies to water contractors above and beyond the requirements of the Accord, however the Accord assumes full implementation of CVPIA. Two, even if the spirit of the Accord was as the Governor viewed it, the Accord does not supersede the requirements of federal law. Three, water deliveries to contractors in the San Luis unit for the previous two years have been above contract requirements, not below as predicted when the Accord was signed. He questioned the implication for a CALFED assurances package when water supply deliveries are above contract requirements and environmental water commitments are not met.

He referred to a letter in the BDAC packet that requests written assurance that the Accord will be implemented as written prior to extension of the Accord. Particularly, the state should undertake a greater share of implementation. Presently, the federal government is bearing a larger share.

Ms. Notthoff agreed that implementation of CVPIA and the Accord had implications for CALFED. In particular, the full dedication of the 800,000 acre-feet for environmental purposes. Lester Snow replied that each CALFED alternative includes the dedication of 800,000 acre-feet of water for environmental purposes. He noted that there was difficulty in agreeing on a way to account for the dedicated water. He added that the CALFED Policy Group was committed to a one year extension of the Accord. Mr. Patterson added that the extension would be for the Accord as written, which means that those parts that are ambiguous would remain unclear.

Public Comment

Barry Nelson (Save San Francisco Bay Association) noted that CVPIA is an underpinning of the CALFED process. He agreed with Mr. Graff's comment that the Accord in no way repealed part of CVPIA. The importance of this issue to BDAC is twofold; one, if one federal law can not be implemented, it is hard to believe that the CALFED package could be implemented and two, there is concern that some proposed uses of the CALFED funding appropriation from Congress would be inconsistent with CVPIA. Mr. Nelson commented on the chart distributed by Mr. Graff. Mr. Nelson noted that the information from the Westlands Water District categorized the sources of supplemental water deliveries between CVP and non-CVP sources. Between 25-44% of the supplemental water came from CVP sources. Mr. Nelson and Mr. Hall discussed carry-over water from one year to the next. Water may be carried over due to growers concerns about the availability of future water supplies. The concern among environmentalists is whether such carry-over happens at the expense of fulfilling environmental water dedicated in the CVPIA. Both agreed that CVPIA and CALFED decisions should be fully coordinated and that modelers from both viewpoints should meet. Both also agreed that progress had been made on the technical issues and information underlying the policy debate on CVPIA implementation. Mr Patterson added that participants in the Garamendi process have agreed to full disclosure. He added that the CALFED Policy Group was fully briefed by staff and stakeholders on the issue at its last meeting. Lester Snow explained that those persons working to extend the Accord were the same persons involved in the Garamendi process and were informed of the status of the B2 water. Ms. Notthoff and Ms. Borgonovo called for clearing up the ambiguities in the Accord prior to its extension.

Laura King (San Luis and Delta-Mendota Water Authority) informed BDAC that preliminary modeling results on the B2 water issue were being discussed by a subgroup of the Garamendi Process. Additionally, this same topic was being reviewed by the Agriculture/Urban group's technical staff.

Gary Bobker (The Bay Institute) stated the extension of the Accord raised concerns because some decisions are violating the agreement. Also lack of agreement on the Accord's impacts on water supply precludes consensus on how much B2 water is available for environmental purposes. Mr. Bobker stated that linkage between the CVPIA B2 issue and CALFED was necessary. He noted there is concern on whether goals to create water supply benefits and improve the environment are compatible. Mr. Hall responded that water supply interests are trying to implement the Accord on a "no net loss" basis. He added that the technical work in the Garamendi process aims to prevent water supply losses while implementing the B2 subsection. The intent is to coordinate the programs so that environmental improvement occurs with a minimal impact on water supply. Mr. Bobker responded that another question is the degree to which private versus public resources are used to mitigate impacts to the environment due to water supply.

Vice Chair McPeak stated that updates on the CVPIA B2 issue and on extension of the Bay-Delta Accord

would be on the agenda for the November meeting.

8. BDAC WORK GROUP UPDATES

Prior to the updates, Vice Chair McPeak announced that Ms. Selkirk was resigning from BDAC in order to join CALFED staff. She thanked Ms. Selkirk for her participation on BDAC. Ms. Selkirk stated that her responsibility at CALFED would be to improve the BDAC process.

8a. ECOSYSTEM RESTORATION WORK GROUP (Mary Selkirk)

Presentation

Ms. Selkirk stated that Vol. III of the ERPP was published two weeks previously. She then reviewed the Scientific Review Panel process memo in the BDAC packet. She added that the Work Group is increasingly focused on the topic of assurances. She concluded the presentation stating that the ERPP is a work-in-progress and that the focus would be on refining Vol. III. The next meeting of the work group is on September 17th. Sharon Gross (CALFED Program staff) added that the work group would be reviewing the ERPP at that meeting.

Discussion

Mr. Hildebrand, Mr. Daniel, Ms. Selkirk, Vice Chair McPeak and Ms. Borgonovo discussed the desirability of sediment transport in the San Joaquin River system. Without historic flows the problem of aggradation of sediment at the tidal zone of the river would degrade, not restore, the ecosystem. On the other hand, the attempt to use historic processes, while not at the historic scale, is anticipated to be environmentally beneficial. This kind of debate would be addressed by the Scientific Review Panel. Additionally, adaptive management of ERPP actions would require ongoing testing of this hypothesis.

Vice Chair McPeak urged that during the deliberations of the Scientific Review Panel distinction between the San Joaquin River and Sacramento River systems be made.

8b. WATER TRANSFERS WORK GROUP (Tib Belza and Roger Strelow)

Presentation

Mr. Belza reported on the first meeting of the work group and stated that the work group is looking at the short and long-term effects of water transfers. He anticipated that this effort would be integrated with other CALFED analysis. Additionally the work group would review what works well and what does not. He noted that the meeting was very well attended.

Mr. Strelow said that the next meeting would be on September 17th. He emphasized that the process is open to all interests and that business and industrial representatives were missing and would be encouraged to participate. He noted that these interests have much invested in a model act that was considered by the legislature.

8c. ASSURANCES WORK GROUP

Presentation

Mary Scoonover (CALFED Program staff) reminded BDAC of the purpose for the assurances package. She stated that since the presentation to BDAC in the spring the work group has discussed two alternative institutional arrangements that address management approaches for assuring ecosystem restoration, water supply reliability and other program goals. The Delta Ecosystem Restoration Authority would be

comprised of a board of directors, including CALFED agency and non-agency stakeholder representatives who would sign a Principles Agreement. The other alternative is a joint powers authority (JPA) of CALFED agencies. An implementation plan for the JPA would be included in the EIR/EIS. The work group intends to have a package of recommendations for BDAC discussion in November.

Discussion

While saying he was not criticizing the work group, Mr. Hildebrand expressed doubt about the effectiveness of assurances. He stated that the only way to assure the system would be operated properly was to make it physically impossible to operate it in another manner.

8d. FINANCE WORK GROUP (Zach McReynolds)

The item was postponed to the November agenda.

Vice Chair McPeak directed staff to place discussion of the HCP and how the ERPP addresses non-migratory avian species on the November agenda.

9. PUBLIC INVOLVEMENT UPDATE (Sharon Gross)

Presentation

Ms. Gross reviewed the scoping meeting schedule for the HCP, as well as the program-wide statewide meetings later in the fall. The schedules were available at the BDAC meeting. Vice Chair McPeak noted that there were ongoing efforts to improve the public involvement program. She noted that it is important at the end of the process to have a critical mass of interested parties who will agree with the CALFED solution.

10. PUBLIC COMMENT

- Mr. Petry reiterated his concerns about water quality for the City of Mendota. He noted that land retirement might help to address the problem and have other benefits as well. Mr. Hildebrand expressed concern about possible third party impacts from land retirement. Mr. Petry closed stating that efforts to schedule meetings closer to his community would be welcome as the expense to attend the meetings and address the council for a short period of time came out of his pocket. In response, Vice Chair McPeak suggested that an alternative may be to send in comments if the travel becomes too burdensome.
- Craig Brion (Santa Clara Valley Audubon Society) encouraged the program to address water demand management and felt that the program was not taking the issue seriously enough. He described some ecosystem benefits that could be derived from demand management in San Jose and noted that the water used in the city was partly supplied through the State Water Project.
- Polly Smith (individual) stated that she wanted to see CALFED succeed, yet the water use efficiency common program needed to be strengthened to be successful. She encouraged more source reductions. While preferring a mandatory approach, assurances may address some of her concerns.
- Jennifer Fagen (Sierra Club) noted that there exists a large constituency in support of the CVPIA fish program. She added that CALFED should fully examine water use efficiency rather than

creating new facilities.

- Jenna Olsen (Environmental Water Caucus) thanked BDAC and CALFED for meeting in the Bay Area and for scheduling an HCP scoping meeting in the Bay Area. She urged that future meetings be located near public transit.

The meeting was adjourned at 4:25 PM.